



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 24, 1997

Ms. Lan P. Nguyen  
Assistant City Attorney  
City of Houston  
Legal Department  
P.O. Box 1562  
Houston, Texas 77251-1562

OR97-1438

Dear Ms. Nguyen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 106692.

The City of Houston (the "city") received a request for copies of the winning bids for Bid # LC-N-0739-039-10245, Bid # TC-6-7030-025-009526, and Bid # TC-6-0737-029-010251. You state that the city will make the winning proposal for the first bid available to the requestor. As for the proposals received in connection with the other two bids, you claim that these proposals are excepted from disclosure under sections 552.104 and 552.110 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.104 of the Government Code excepts from required public disclosure "information which, if released, would give advantage to competitors or bidders." Section 552.104 is generally invoked to protect information relating to competitive bidding situations involving specific commercial or contractual matters. Open Records Decision No. 463 (1987). Governmental bodies may withhold bid information while governmental officials are in the process of evaluating the proposals and asking competitors to clarify their bids. Open Records Decision No. 170 (1977). Section 552.104 does not, however, except proposals from disclosure once the bidding is over and the contract is in effect. Open Records Decision Nos. 306 (1982), 184 (1978).

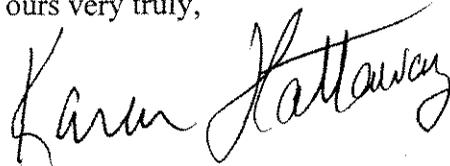
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<sup>1</sup>Pursuant to section 552.305 of the Government Code, we notified the companies whose proposals were submitted to this office that their proposals are the subject of a request for information. Hart Information Services, Inc. responded by claiming that its proposal is excepted from disclosure under sections 552.104 and 552.110 of the Government Code. Public Health Software Systems, LLC did not respond.

The city received one proposal in response to Bid # TC-6-7030-025-009526, and one proposal in response to Bid # TC-6-0737-029-010251. You state that "no contract has been awarded or approved by City Council as these two proposals are still under review by City officials." Under these circumstances, we conclude that the city may withhold the submitted proposals from disclosure under section 552.104 of the Government Code until such time as a contract is awarded.<sup>2</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 106692

cc: Mr. Akiboh Michael  
National Integrated Systems Corp.  
Data Research & Statistics Dept.  
P.O. Box 721975  
Houston, Texas 77272-1975  
(w/o enclosures)

Mr. Jerry Meadows  
Vice President  
Hart Information Services, Inc.  
P.O. Box 80649  
Austin, Texas 78708-0649  
(w/o enclosures)

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<sup>2</sup>As we are able to resolve this matter under section 552.104 of the Government Code, we need not address section 552.110 of the Government Code.

Mr. Jeffrey L. Cronon  
President/CEO  
Public Health Software Systems, LLC  
One Meca Way  
Norcross, Georgia 30093  
(w/o enclosures)

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